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Wine Enthusiast, Inc.*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
WINE ENTHUSIAST, INC.,

Plaintiff and Counterclaim Defendant,

against

VINOTEMP INTERNATIONAL CORPORATION,

Defendant and Counterclaim Plaintiff.  
----- X

**ORAL ARGUMENT  
REQUESTED**

No. 17 Civ. 6782 (DLC) (HP)

**NOTICE OF MOTION TO BIFURCATE**

PLEASE TAKE NOTICE that, upon the accompanying Declarations of Joelle A. Milov, Richard L. Claverie and Stuart Diamond, with exhibits, and Memorandum of Law, and all of the prior pleadings and proceedings in this action, Plaintiff and Counterclaim Defendant Wine Enthusiast, Inc. (“Wine Enthusiast”), by and through its undersigned counsel, hereby moves this Court, before the Hon. Denise L. Cote, United States District Judge, Southern District of New York, at the U.S. Courthouse, 500 Pearl Street, New York, NY 10007, for an Order, pursuant to Rules 26 and 42(b) of the Federal Rules of Civil Procedure, bifurcating for purposes of discovery and trial the issue of Defendant and Counterclaim Plaintiff Vinotemp International Corporation’s (“Vinotemp”) trade dress validity, on the one hand, and the issues of trade dress infringement

and damages, on the other hand, such that discovery and trial on the issue of trade dress validity is conducted before discovery and trial on the issues of trade dress infringement and damages. In the alternative, Wine Enthusiast requests that the Court limit discovery on the trade dress claim at this time to the issue of trade dress validity and provide an early deadline for summary judgment on the issue. Wine Enthusiast does not request modification to the Court's initial case management order as the schedule therein relates to Vinotemp's unrelated patent infringement claim based on U.S. Patent No. 7,882,967.

Dated: New York, New York  
October 4, 2018

COWAN, LIEBOWITZ & LATMAN, P.C.

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To: All Counsel of Record